

ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

OFFICER-INVOLVED SHOOTING – 052-22

Division **Date** **Duty-On (X) Off () Uniform-Yes (X) No ()**

Southeast 9/29/22

Officer(s) Involved in Use of Force **Length of Service**

Officer E 4 years, 11 months
Officer C 13 years, 6 months

Reason for Police Contact

Southeast Division officers responded to a “shots fired” radio call. While canvassing an alley for evidence of a shooting, their attention was drawn to a male (the Subject) walking toward them. An officer ordered the Subject to show his hands, at which time he produced a pistol and fired at the officers, resulting in an officer-involved shooting (OIS).

Subject **Deceased () Wounded () Non-Hit (X)**

Male, 36 years of age.

Board of Police Commissioners’ Review

This is a brief summary designed only to enumerate salient points regarding this categorical use of force (CUOF) incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division (FID) investigation (including all of the transcribed statements of witnesses, pertinent Subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority opinions; the report and recommendations of the Chief of Police (Chief); and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on September 12, 2023.

Incident Summary

On Thursday, September 29, 2022, at approximately 2130 hours, a witness called 911 and reported hearing multiple gunshots with a possible victim down. In response, Communications Division (CD) broadcast an “*ambulance ADW shooting*” radio call. Responding personnel included Officers A, B, C, D, E, F, and Sergeant A.

Officers A and B accepted the call. Officers D, C, F, and E also responded. At 2136 hours, CD broadcast a second radio call of “*shots fired heard only.*” As Officers A and B approached the location of the original radio call, a pedestrian advised them that the “*shooter*” fled in a white Chevrolet Tahoe. In response, Officers A and B drove around the immediate area but did not observe the Tahoe. They then responded to the call location and joined the other officers.

As the officers canvassed the area for victims, witnesses, and evidence of a shooting, Officer F spoke to the original 911 caller. She described a white Chevrolet Tahoe traveling north and south while shooting at a “*group of young boys*” and hearing one of the victims yell, “*I’m hit. I’m hit.*”

Officer B believed that the Subject responsible for the “*Shots Fired*” radio call had fled the location based on the witness reporting that he had driven away. Prior to walking toward the alley, Officer B shined his/her flashlight at Officer A, who was standing at a nearby street corner to alert him/her of his/her location. A review of both officers’ BWV determined that Officer A’s back was to Officer B at the time.

At approximately 2139 hours, Officer B entered the alley. Shortly thereafter, he was approached by Witness A, who told him/her that the Subject had fired shots in the alley before fleeing in a white Tahoe. Witness A then described the Subject. Witness A directed Officer B to the alley where he believed that the Subject fired from. Officer B did not initially observe evidence of a shooting and continued to canvass in the alley.

According to Officer B, while at a sliding vehicle gate, a witness, who was positioned at a window of an adjacent apartment building, told Officer B, “*Hey, the guy shot right there.*” With the aid of his/her flashlight, Officer B observed a white Nissan Frontier in the parking area with a shattered rear window. Additionally, Officer B located a discharged cartridge case (DCC) in the vicinity of the Frontier. At 2146 hours, approximately seven minutes after entering the alley, Officer B broadcast a request for additional units to assist with evidence and the establishment of a crime scene. Officers A, C, E, D, and F joined Officer B in the alley approximately three minutes later.

Officers D and B searched the parking area near the sliding vehicle gate that separated the parking area from the alley.

As that occurred, Officers A, C, E, and F searched in the alley, on the opposite side of the vehicle gate. Officer E was standing farthest south in the alley with his/her flashlight illuminated.

The investigation determined that as the officers searched for evidence, the Subject, entered the alley with his right hand behind his back. The Subject produced a pistol and fired one round at the officers resulting in an OIS with Officer E. When the officers followed the Subject, he again fired at the officers and an additional OIS occurred involving Officers C and E. The officers' BWV only captured limited views of the Subject and most of his actions could not be discerned.

For clarity, each officer's observations and actions have been independently described on the following pages.

Officer E's account of the OIS:

According to Officer E, he/she heard footsteps south of him/her. Upon turning and illuminating the area with his/her flashlight, he/she observed the Subject walking toward him/her with his right hand concealed behind his back and his chest "out" in an "aggressive manner." Officer E believed that the Subject was there "with the intent to cause harm" to them.

According to Officer E, he/she ordered the Subject to "Stop! Stop!" The Subject paused and turned south toward the street, with his body bladed to Officer E. The Subject then looked over his shoulder, raised his right hand, pointed a silver pistol toward Officer E, and fired one round.

Officer E heard the shot and observed the muzzle flash. In response, Officer E transitioned his/her flashlight from his/her right to his/her left hand, unholstered his/her pistol, and fired one round at the Subject utilizing a one-handed grip.

Note: The investigation determined that as Officer E transitioned his/her flashlight from his/her right to his/her left hand, he said, "Hey, Hey. Let me see your hands, let me see your hands!" He/she then unholstered his/her pistol with his/her right hand and moved south in the alley toward the Subject. At that point, the Subject fired his pistol and Officer E returned fire.

The Subject ran south out of the alley and west on the north sidewalk. Officer E was aware that Officer C was with him/her and followed the Subject out of the alley in "containment mode" to monitor the Subject's direction of travel. Officer E was concerned that the Subject was "armed and dangerous" and believed that he could cause harm to the community members in the area.

According to Officer E, he/she maintained his/her finger on the slide of his/her pistol. As he/she approached the mouth of the alley, he/she observed the Subject running west on the north sidewalk. Officer E continued onto the street to utilize vehicles on the north curb as cover. He/she moved west in the street while maintaining a distance of approximately two car lengths from the Subject. As the Subject continued running west

on the north sidewalk with the pistol in his right hand, he pointed it in a southeast direction back at Officer E and fired. Officer E heard the gunshot, observed muzzle flash, and in response, fired four rounds at the Subject, while on the move and utilizing a two-handed grip on his/her pistol. According to Officer E, he/she assessed while firing and continued to observe the Subject pointing the pistol at him/her. Officer E believed that after firing his/her volley, the Subject fired one additional round back at him/her.

Officer E believed that while on the street, the Subject fired the first and last rounds of the exchange and may have fired up to four rounds. A sound consistent with a gunshot can be heard on Officer C's BWV before Officers C and E returned fire. The investigation identified physical evidence of the Subject only firing one round while on the street. The DCC from the Subject's pistol was collected from the sidewalk.

According to Officer E, the Subject then ran north. Officer E stopped at the northeast corner of the street where he utilized a light pole for cover. Officer E observed the Subject enter a "white vehicle" parked north of him/her on the east curb. As Officer E pointed his/her pistol at the Subject's vehicle, with his/her finger along the frame, an officer crossed in front of him/her. Upon observing this, he immediately lowered his/her muzzle.

Officer C's account of the OIS:

Officer C was standing north of Officer E in the alley, facing east. According to Officer C, he observed the Subject's white shirt in his/her peripheral vision as the Subject walked toward him/her and the other officers.

Simultaneously, he/she heard Officer E say, "Hey, let me see your hands." As Officer E repeated, 'Let me see your hands,' the [Subject] points the gun in my direction. I hear a gunshot, along with a muzzle flash as I hear the gunshot."

Officer C believed that the Subject knew they were police officers and intentionally entered the alley to ambush them.

According to Officer C, he/she observed the Subject run south out of the alley, and he/she joined Officer E in following the Subject. Officer C's intent was to track and contain the Subject.

According to Officer C, as he/she reached the mouth of the alley, he/she attempted to slow down while unholstering his/her pistol with his/her right hand. While holding his/her flashlight in his/her left hand, Officer C obtained a two-handed grip on his/her pistol with his/her flashlight between his/her left hand and the pistol. Upon reaching the north sidewalk, Officer C looked west and observed the Subject running on the sidewalk with his left arm holding the pistol extended back toward him/her. Officer C then observed two muzzle flashes as the Subject fired his pistol at him/her.

According to Officer C, while running on the sidewalk, he could not redeploy or obtain immediate cover because there were parked vehicles south of him/her and a fence north of him/her. In response to the Subject firing, Officer C fired six rounds at the Subject, as the Subject continued pointing his pistol and firing at him/her.

According to Officer C, immediately after firing his/her final round, he/she observed the Subject run north before he/she lost sight of him/her. Officer C slowed as he/she approached the northeast corner of the street and announced, *"He's shooting at us! Put it out!"* to alert the officers behind him/her that the Subject was firing at them. Observing that there was limited cover at the corner, Officer C stopped and attempted to utilize distance to give him/her more time to assess the situation.

Unbeknownst to Officer C, after running north, the Subject entered a white GMC Yukon (not a white Chevrolet Tahoe, as described by original 911 caller) parked along the east curb. Officer C then heard an officer yell that the Subject was inside the Yukon before he/she observed it drive away north.

As described by Officer C, upon hearing that the Subject had entered the Yukon, Officer C pointed his/her pistol toward the Yukon and placed his/her finger on the trigger. Officer C told FID, *"Based off of what I observed, he was now in the vehicle, which obviously I preserved (sic) to be a threat. I went -- had my gun on target with my finger on the trigger."* Officer C indicated that the Yukon had *"completely dark tinted windows"* and that although he/she believed that the Subject was in the Yukon's driver's seat, he/she *"wasn't sure."* Officer C stated that he/she removed his/her finger from the trigger once he/she *"observed the brake lights go on."*

Officer C then broadcast a help call with the vehicle's description and direction of travel. Moments later, officers initiated a vehicle pursuit of the Subject.

Officer A's account of the OIS:

Officer A was standing in the alley north of Officers E and C, next to the sliding vehicle gate. While speaking to Officer B and facing east, he/she heard Officer E shout commands. Officer A turned and observed the Subject fire a shot. Officer A stated that he/she heard a second gunshot while in the alley but was not sure if it was the Subject or an officer. Officer A described the Subject as a *"silhouette"* wearing a white T-shirt. He observed the muzzle flash coming from the Subject's location but could not describe the pistol or how the Subject held it.

According to Officer A, the Subject ran west from the alley and he/she followed Officer E out of the alley. Officer A moved west on the street in containment mode, while using parked vehicles on the north curb as cover. Officer A observed the Subject running west on the sidewalk and heard three gunshots; however, he/she did not know who was firing and could not see the Subject's hands due to the vehicles positioned between them.

Officer A ran to the corner of the street and observed the white Yukon parked on the east curb. Believing the Subject might be hiding on the other side of the Yukon, Officer A briefly moved to the middle of the street to determine the Subject's location and observed him enter the Yukon through the driver's door. As the Subject did so, Officer A pointed his/her pistol at the Yukon; however, he did not place his/her finger on the trigger. On Officer A's BWV, he can be heard saying, "*Let me see your hands! Let me see your hands!*" When Officer A observed the driver's door closing, he/she lowered his/her pistol and moved to the corner while advising the other officers to get cover.

After the Subject drove away north, Officer A assessed that the Subject was no longer a threat and holstered his/her pistol. He/she then ran north to determine the Subject's direction of travel. Officer A observed the Subject make a westbound turn and broadcast that information.

Officer F's account of the OIS:

Officer F was in the center of the alley north of Officers C and E. According to Officer F, he/she heard Officer E yell, "*Drop it! Drop it.*"

Officer F looked south and observed the Subject turn counterclockwise with his back to the officers. Officer F observed the Subject look over his right shoulder while holding a dark-colored pistol "*upside-down*" in his right hand. The Subject's right arm was straight and slightly "*reaching*" behind him, toward the officers. Officer F observed muzzle flash as the Subject fired two rounds in a northbound direction at the officers. He/she then observed muzzle flash as Officer E fired a round back at the Subject.

A review of Officer E's BWV determined that the Subject turned clockwise, away from the officers. The investigation identified physical evidence of the Subject only firing one round while in the alley.

According to Officer F, upon seeing the Subject armed with a pistol, he/she unholstered his/her pistol. Once the Subject ran out of the alley and west on the north sidewalk, Officer F followed behind Officer C in containment mode. Officer F indicated that the Subject ran on the north sidewalk with his back to them while holding the pistol in the same upside-down configuration. The Subject continued pointing the pistol back at the officers with his right hand and fired two rounds. Officer F then heard Officer C fire several rounds at the Subject, while the Subject continued to point the pistol at them. As Officers C and F continued west, Officer F broadcast a help call.

Officer D's account of the OIS:

Officer D was in the alley and positioned on the east side of the sliding vehicle gate when he/she heard Officer E say, "*Stop right there. Let me see your hands.*" Officer D observed Officer E unholster his/her pistol and heard a gunshot. Officer D heard a metallic ping but was unsure if anything had been impacted. Officer D then observed Officer E move south in the alley and fire one round.

Officer D was unsure if there was an opening from the sliding vehicle gate into the alley and consequently ran east through the property so as to assist in setting up containment if the Subject ran east. Officer D heard five to seven additional gunshots; however, he did not observe the Subject or officers' actions on the street.

After the respective OISs, the Subject fled in the Yukon. A vehicle pursuit ensued, and the Subject crashed several blocks away before being taken into custody. Although the Subject was not struck by gunfire, he sustained minor, non-life-threatening injuries in the traffic collision. A motorist who the Subject collided with also suffered injuries.

BWV and DICV Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer A	No	Yes	Yes	N/A	N/A
Officer C	Yes	Yes	Yes	N/A	N/A
Officer E	No	Yes	Yes	N/A	N/A
Officer F	No	Yes	No	N/A	N/A

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Los Angeles Board of Police Commissioners' (BOPC) Findings

The BOPC reviews each CUOF incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: tactics of the involved officer(s), drawing/exhibiting of a firearm by any involved officer(s), and the use of force by any involved officer(s). Based on the BOPC's review of this incident, the BOPC made the following findings:

A. Tactics

The BOPC found Officers A, E, and F's tactics to warrant a Tactical Debrief. The BOPC found Officer C's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

The BOPC found Officers A, C, E, and F's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

The BOPC found Officers C and E's lethal use of force to be In Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the

law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation."

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Use of De-Escalation Techniques: It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings: Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force

may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

Proportionality: Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing: Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly: It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Objective Reasonableness: Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,

- Whether a person is a member of a vulnerable population.

Drawing or Exhibiting Firearms: Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

Use of Force – Deadly: It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

The Department's Evaluation of Deadly Force: The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

Rendering Aid: After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

Warning Shots: It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case-by-case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

Requirement to Intercede When Excessive Force is Observed: An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

Definitions

Deadly Force: Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Feasible: Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent: Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Totality of the Circumstances: All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and suspect leading up to the use of force.

Vulnerable Population: Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Warning Shots: The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

Detention

While in the alleyway canvassing for evidence of a shooting and armed suspect (s), officers observed the Subject enter the alleyway with his hand behind his back. After Officer E told the Subject to show his hands, the Subject turned around, pointed a pistol at officers, and fired one round. Based on the totality of the circumstances, the officers had reasonable suspicion to detain the Subject.

A. Tactics

- **Tactical De-Escalation**

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

- **Planning**
- **Assessment**
- **Time**
- **Redeployment and/or Containment**
- **Other Resources**
- **Lines of Communication**

Tactical de-escalation does not require that an officer compromise his/her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

- **Planning** – Officers E and F worked together three times in the past. At the beginning of their shift, they discussed tactical concepts, including contact and cover roles and responsibilities.

Officers C and D worked as partners for approximately two months, during which they discussed tactical concepts, including contact and cover roles and responsibilities, foot pursuit concepts, and officer safety.

Officers A and B worked as partners for approximately three years. At the beginning of their shift, they discussed tactical concepts, including contact and cover roles and responsibilities, foot pursuit concepts, and officer safety.

- **Assessment** – Officer E was canvassing for evidence of a shooting while in the alley. He/she observed the Subject enter the alley with his right hand concealed behind his back. Officer E, who was investigating a “shots fired” call where the shooter was still outstanding, told the Subject to show him/her his hands, alerting the officers in the alley of a possible threat. The officers saw the Subject fire one round at them and flee southbound in the alley. According to Officer E, he/she assessed while firing and observed the Subject pointing his pistol at him/her.

While in foot pursuit of the Subject, Officer C alerted other officers that the Subject was firing at them.

- **Time and Redeployment/ Containment** – The Subject entered the dark alley where officers were canvassing for evidence of a shooting. Officer E saw the Subject enter the alley with his hands behind his back as if hiding an object. After Officer E gave the Subject commands to show his hands, the Subject produced a pistol, fired at the officers, and fled on foot. The Subject subsequently entered a white GMC Yukon and sped away, resulting in a vehicle pursuit. The Subject’s sudden actions and the lack of available cover in the alley limited the officers’ ability to use time as a de-escalation technique.
- **Other Resources** – During the foot pursuit, Officer F broadcast that shots had been fired. Officer C also broadcast a “shots fired, officer needs help” call and provided a description and direction of travel of the Subject’s white GMC Yukon. Additional units responded to the scene and subsequently located the Subject’s Yukon. A vehicle pursuit ensued, the Subject collided with another vehicle, and officers apprehended the Subject without additional force.
- **Lines of Communication** – Upon the Subject entering the alley, Officer E verbally commanded the Subject to show his hands, alerting other officers that a suspicious individual had entered the alley.

After the second OIS, Officer C told the other officers that the Subject was shooting at them. Officer A told the other officers to seek cover when he realized that the Subject had entered the white GMC Yukon. After the Subject fled in the Yukon, Officer C broadcast an additional help call and provided pertinent information regarding the vehicle’s description and direction of travel.

During its review of this incident, the BOPC noted the following tactical considerations:

1. Foot Pursuit Concepts

Officer C ran onto the sidewalk to offset and avoid being in Officer E’s crossfire. Officer C did not utilize available cover as he ran alongside the parked vehicles and a fence during the foot pursuit. Officer C stated he/she was unable to move to any available cover prior to the Subject engaging him/her in gunfire. Officer F

also pursued the Subject on the sidewalk but used a vehicle parked along the street as cover. Officers A and E ran on the street and utilized parked vehicles as cover. At the termination of the foot pursuit, Officers C, E, and F stopped behind a light pole and wooden fence, which offered limited cover and concealment.

Unbeknownst to Officer A, the Subject had entered a white GMC Yukon parked on the street. Officer A ran into the street without cover and exposed him/herself. Officer A stated he/she was "*pie-ing*" the Subject's vehicle to locate the Subject. After realizing the Subject had entered the Yukon, Officer A redeployed to a wooden gate and light post, which other officers used as cover and concealment.

The BOPC noted that the UOFRB assessed Officers A, C, E, and F's tactics during the foot pursuit. Regarding Officer C, the UOFRB noted that while they would have preferred Officer C to remain behind cover, they understood that he was limited in time and options to seek cover. The UOFRB acknowledged that officers are taught to offset when foot-pursuing a suspect to avoid crossfire issues, which is what Officer C did at the start of the foot pursuit. Unfortunately, Officer C chose a path of travel that offered no cover, exposing him/herself. The UOFRB noted that Officer C decided to take a less-than-desirable path of travel during a dynamic and spontaneous event.

Regarding Officer A, the UOFRB noted that he/she used the white GMC Yukon as cover after the foot pursuit to gain situational awareness and ensure that the Subject was not lying in wait for the officers. However, the UOFRB also noted that once Officer A realized the Subject had entered the Yukon, he/she quickly returned to cover and advised other officers to do the same. Officer A followed the Yukon on foot for approximately 40 yards when it sped from the scene. The UOFRB found that Officer A did so to gain situational awareness of the Subject's direction of travel to properly broadcast pertinent information. The UOFRB opined that Officer A did not believe that the Yukon was a threat due to the rapidly increasing distance between him/her and the Yukon. Additionally, Officer A holstered his/her pistol prior to running toward the Yukon, indicating that no threat was perceived. Officer A was quickly met by other officers, and he/she was in the line of sight and in close proximity of other officers at scene while monitoring the direction of the Yukon.

Based on the officers' actions, the UOFRB opined that the officers were in containment mode. During the Subject's short foot pursuit, officers maintained an appropriate distance and worked to maintain a visual of him.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A, E, and F were not a deviation from Department approved tactical training. However, the tactics utilized by Officer C was a substantial deviation, with justification, from Department-approved tactical training.

2. Basic Firearm Safety Rules

Upon losing sight of the Subject and believing he may have entered a white GMC Yukon, Officer C stated that he/she acquired a target with his/her pistol and placed his/her finger on the trigger. Officer C stated that he/she was unsure where the Subject was in the Yukon due to tinted windows; however, he believed the Yukon “to be a threat” to his/her safety. When Officer C observed the Yukon begin to drive away, he/she placed his/her finger along the frame of his/her pistol.

The BOPC noted that the UOFRB assessed Officer C’s adherence to the Basic Firearm Safety Rules. The UOFRB noted that at the end of the foot pursuit, Officer C identified the Yukon as his/her target and placed his/her finger on the trigger. The UOFRB concluded that when he placed his/her finger on the trigger, Officer C did not have a specific target to shoot. The event occurred during hours of darkness, and the Yukon’s windows were heavily tinted. Additionally, the UOFRB noted that Officer C could not be sure of the Subject’s location inside the Yukon or if any other individuals were inside.

The UOFRB acknowledged the fluid and stressful nature of this incident. However, given this stress-inducing event, the UOFRB opined that by preemptively placing his/her finger on the trigger, Officer C increased the risk of an unintentional discharge.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer C were a substantial deviation, without justification, from Department-approved tactical training.

The BOPC also considered the following additional debriefing topics:

- **Radio Procedures** – Upon entering the alleyway, Officers A, C, D, E, and F did not advise CD of their follow-up location.
- **One-Handed Shooting Platform** – Officer E was searching for evidence when he/she observed the Subject enter the alleyway armed with a pistol. Officer E observed the Subject fire one round at him/her and other officers. Officer E then transitioned his/her flashlight from his/her left hand to his/her right hand, unholstered his/her pistol, and fired a round. Officer E maintained this single-handed shooting grip when he/she fired his/her pistol.
- **Situational Awareness** – Officer C inadvertently broadcast the “shots fired” call on simplex rather than on the base frequency. When he/she realized he/she was on simplex, he/she switched to the base frequency and rebroadcast the “shots fired” call.

While Officer B was canvassing for evidence, he/she entered the alley, where he/she was approached by a witness. The witness directed Officer B to where he

observed the Subject firing his pistol. Approximately seven minutes after entering the alleyway, Officer B observed evidence of a shooting and broadcast a request for additional units to establish a crime scene. Officers A, C, D, E, and joined Officer B in the alley approximately three minutes later.

According to the FID investigation, Officer E pointed his/her pistol at the Subject's vehicle and maintained his/her finger along the frame. Officer A then crossed in front of Officer E, prompting him/her to lower his/her muzzle immediately.

- **Fire Control/ Fire Discipline** – The FID investigation revealed that Officer E fired four rounds, and Officer C fired six rounds in 3.3 seconds.
- **Police Announcement** – According to the FID investigation, when Officer E observed the Subject enter the alley, while clad in full police uniform, he/she did not announce him/herself as a police officer.

Command and Control

- Sergeant B was the first supervisor to arrive at the scene of the initial radio call at approximately 2142:06 hours. At the time of the OIS, Sergeant B was still at the location of the original radio call and not in the alley where the OIS occurred.

After the OIS occurred, at approximately 2152:55 hours, Sergeant B met with Officer C, who explained to Sergeant B what had occurred. Sergeant B asked Officer C if he had fired his/her pistol and the location of where the OIS had occurred. At approximately 2153:35 hours, Sergeant B instructed the officers at the scene to ensure that the crime scene was secure. Approximately one minute later, Sergeant B broadcast that the Subject was wanted for “ADW on a PO.”

At approximately 2155:24 hours, while on BWV, Sergeant B asked Officers C and E multiple public safety statement (PSS) questions in the presence of Officers A, D, and F. Sergeant B stated he did so to gain “*situational awareness*” of the incident due to the ongoing tactical concerns as the Subject was involved in a vehicle pursuit nearby.

At approximately 2157:57 hours, Sergeant A arrived at the scene and met with Sergeant B approximately one minute later. Sergeant A admonished, separated, and monitored Officers C and E. At approximately 2158:13 hours, Sergeant B declared himself incident commander (IC) at the scene of the OIS. Sergeants A and B then established a command post (CP) at 111th Street and Broadway.

At approximately 2225 hours, Lieutenant A arrived at the scene and assumed the role of IC. Lieutenant A notified the Department Operations Center (DOC).

At approximately 2230 hours, Sergeant A administered the PSS to Officer E; and at approximately 2250 hours, Sergeant C, administered the PSS to Officer C.

At approximately 2255 hours, Captain A arrived at the scene and assumed the role of IC.

The BOPC determined that the overall actions of Sergeants A C, Lieutenant A, and Captain A were consistent with Department training. The BOPC also determined that that were deficiencies in Sergeant B's adherence to the Department's CUOF protocols for admonishing, separating, and monitoring involved officers.

B. Drawing and Exhibiting

- **Officer E**

While canvassing in the alley, Officer E observed the Subject enter the alley with his hand behind his back. The Subject then looked over his shoulder, raised his right hand, pointed a pistol toward the officers, and fired one round. In response, Officer E transitioned his/her flashlight from his/her right hand to his/her left hand and unholstered his/her pistol. According to Officer E, he/she believed that the Subject was trying to kill him/her.

- **Officer C**

While canvassing in the alley, Officer C observed the Subject in his/her peripheral vision pointing a pistol in his/her direction. The Subject then fled south in the alley, and Officer C followed. As Officer C reached the mouth of the alley, he/she attempted to slow down while unholstering his/her pistol with his/her right hand. According to Officer C, he/she unholstered due to the Subject's actions and the need to protect him/herself and his/her fellow officers.

- **Officer F**

While canvassing in the alley, Officer F observed the Subject enter the alleyway. Officer F then observed a muzzle flash as the Subject fired two rounds in a northerly direction at the officers. According to Officer F, upon seeing the Subject armed with a pistol, he/she believed that it might be a lethal force situation and unholstered his/her pistol.

- **Officer A**

While canvassing in the alley, Officer A heard the Subject fire his pistol and saw a muzzle flash. Officer A said that he/she unholstered his/her pistol because he/she believed that the situation could escalate to lethal force. Officer A believed that the Subject shot at him/her and feared for his/her life.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, C, E, and F would reasonably believe

that there was a substantial risk that the situation may escalate to the point where lethal force may be justified. The BOPC observed that the officers were immediately confronted by a Subject who shot at them. As the Subject fled, the officers saw him pointing the pistol toward them and believed that he would continue to shoot. Therefore, the BOPC found Officers A, C, E, and F's drawing/exhibiting to be In Policy.

C. Lethal Use of Force

Background - The FID investigation determined that the background was an unoccupied vehicle, a single-family residence, and the freeway overpass.

Officer E – Pistol, one round fired in a southerly direction and four rounds fired in a northwesterly direction from an increasing distance of 31 to 37 feet.

Round One

Officer E heard footsteps south of him/her while in the alley canvassing for evidence of a shooting. Upon turning and illuminating the area with a flashlight, Officer E observed the Subject walking toward him/her with his right hand concealed behind his back and his chest “out” in an “aggressive manner.” Officer E believed that the Subject was there “with the intent to cause harm” to him/her and the other officers. Officer E then yelled, “Hey! Hey! Let me see your hands, let me see your hands!” The Subject looked over his shoulder, raised his right hand, pointed a silver pistol toward Officer E, and fired one round. In response, Officer E transitioned his/her flashlight from his/her right to his/her left hand, unholstered his/her pistol, and fired one round from approximately 31 feet.

Rounds Two Through Five

The Subject ran south out of the alley and west on the north sidewalk. Officer E followed the Subject out of the alley in “containment mode” to monitor the Subject’s direction of travel. As the Subject continued running west on the north sidewalk with the pistol in his right hand, Officer E believed that he/she pointed the pistol back at him/her and fired. Officer E heard the gunshot, observed muzzle flash, and in response, fired four rounds while on the move and utilizing a two-handed grip on his/her pistol. According to Officer E, he/she assessed while firing and continued to observe the Subject pointing the pistol at him/her. Officer E believed that after firing his/her volley, the Subject fired one additional round back at him/her.

Officer C – Pistol, six rounds fired in a westerly direction from 38 feet. While in the alley, Officer C observed the Subject fire one round at the officers and flee. Officer C believed that the Subject knew that they were police officers and intentionally entered the alley to ambush them. Officer C then observed the Subject run south out of the alley and joined Officer E in foot-pursuing the Subject. Upon reaching the north sidewalk, Officer C looked west and observed the Subject running on the

sidewalk with his left arm holding the pistol extended back toward him/her. According to Officer C, he/she then observed two muzzle flashes as the Subject fired at him/her. In response to the Subject's rounds, Officer C fired six rounds from his/her pistol as the Subject continued pointing his pistol and firing at him/her. According to Officer C, he/she believed that the Subject fired four rounds at him/her while on the street. Officer C fired back to defend him/herself "*from injury and getting killed*" and explained he could feel "*ricochet and debris*" hitting his/her shins.

The BOPC assessed Officers C and E's lethal use of force. The BOPC considered that the UOFRB noted that as the officers were canvassing for evidence of a shooting, they were suddenly approached and immediately fired upon by the Subject. The officers reacted to a threat caused by the Subject's unprovoked actions, which caused Officer E to fire one round from his/her pistol toward the Subject. When the Subject fled on foot, still in possession of a pistol, the UOFRB noted that the officers foot-pursued him/her to contain a threat to both their safety and the community's safety. Officers C and E then observed the Subject point a pistol in their direction and believed that the Subject fired multiple rounds from his pistol at them. In response to the Subject's actions, Officer E fired four rounds and Officer C fired six rounds. While the FID investigation revealed that the Subject only fired twice during this incident, one time in the alley and one time on the street, the UOFRB opined that Officers C and E's perception that the Subject was a continuous threat was reasonable, as he pointed the pistol back in their direction while running away. Based upon the Subject's actions, it was reasonable for Officers C and E to believe that the Subject posed an immediate lethal threat to the officers.

As it pertains to the number of rounds fired by the officers, the UOFRB noted that Officer E fired five rounds and Officer C fired six rounds. Based on the available evidence, the UOFRB opined that both officers assessed an imminent lethal threat each time they fired their pistols, and the force used was proportional to the reasonably perceived level of resistance.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers C and E, in the same situation, would reasonably believe that the lethal use of force was proportional, objectively reasonable, and necessary. Therefore, the BOPC found Officers C and E's lethal use of force to be In Policy.